

Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01
CEQ-01 CG-00 CIAE-00 COME-00 DODE-00 DOTE-00
EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00 H-01
INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01
OES-07 OMB-01 PA-01 PM-05 SP-02 SS-15 ICA-11
/136 W

-----096490 131400Z /41

R 131350Z MAY 78
FM USMISSION GENEVA
TO SECSTATE WASHDC 9646

C O N F I D E N T I A L SECTION 01 OF 02 GENEVA 07415

PASS TO DEPT OF TRANSPORTATION MR. PAUL LARSEN TGC-10

E.O. 11652: N/A
TAGS: PLOS
SUBJECT: DEEPWATER PORT BILATERAL AGREEMENT

1. AT A LUNCH HOSTED BY SWEDEN AND ATTENDED BY HENRY
DARWIN (UK), STEN STRONHOLM (SWEDEN) GOSTA LIND AF HAGEBY
(SWEDEN) AND CDR J.E. VORBACH (US) THE UK REP PRESENTED
THE FOLLOWING PAPER WHICH HE INDICATED WAS BEING DELIVERED
TO THE DOS BY THE BRITISH EMBASSY IN WASHINGTON. BEGIN
QUOTE.

FOLLOWING IS THE DRAFT TEXT OF OUR SUGGESTED AGREED MINUTE

DURING THE DISCUSSIONS LEADING UP TO AGREEMENT ON THE
DRAFT EXCHANGE OF LETTERS ANNEXED TO THIS AGREED MINUTE,
A NUMBER OF POINTS WERE MADE WHICH THE TWO DELEGATIONS
CONSIDER SHOULD BE PLACED ON RECORD.

THE (UK SIDE) ENQUIRED WHETHER IT WAS CORRECT IN UNDER-
STANDING THE WORDS QUOTE THE VESSEL UNQUOTE IN CLAUSE
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(1) OF SECTION 19 (C) OF THE DEEP WATER PORT ACT OF 1974
(PUBLIC LAW 93-627), AS MEANING A VESSEL WHICH WAS CALLING
AT OR OTHERWISE UTILISING A DEEP WATER PORT LICENSED UNDER
THIS ACT. IF SO IT FOLLOWED THAT THE AGREEMENT WOULD NOT
APPLY TO A VESSEL WHICH WAS MERELY PASSING THROUGH THE
SAFETY ZONES OF THE PORT WITHOUT CALLING AT THE PORT. THE
US DELEGATION CONFIRMED THAT THIS WAS THE CASE.

THE (UK DELEGATION) RECALLED THAT WHEN VESSELS WERE CALLING AT PORTS IN THE TERRITORY OF THE UNITED STATES, THE (UNITED KINGDOM) ENJOYED CONCURRENT JURISDICTION BY VIRTUE OF THE (UK) FLAG AND SOUGHT CONFIRMATION THAT THE SAME SITUATION WOULD OBTAIN IN RESPECT OF A VESSEL CALLING AT A DEEP WATER PORT. THE US DELEGATION CONFIRMED THAT THIS WAS THE CASE.

THE (UNITED KINGDOM DELEGATION) RECALLED THAT IN CONNECTION WITH THE PORTS IN THE TERRITORY OF THE UNITED STATES, WHERE THEY FULLY RECOGNISED UNDER INTERNATIONAL LAW THE JURISDICTION OF THE UNITED STATES, THEY MIGHT NEVERTHELESS WISH TO RAISE OBJECTION TO SOME ASPECTS OF THE ENACTMENT OR APPLICATION OF UNITED STATES LAW ON THE GROUNDS THAT IT WAS NOT JUSTIFIED BY INTERNATIONAL LAW, OR AGREEMENT BINDING ON THE TWO PARTIES OR THE RELEVANT DECISIONS OF INTERNATIONAL ORGANISATIONS BINDING ON THE PARTIES. THIS WAS TRUE IN EVERY CASE WHERE ONE STATE LAWFULLY EXERCISED JURISDICTION OVER THE VESSEL OF ANOTHER STATE. AND IT APPEARED TO THEM THAT THE SAME WOULD BE TRUE IN CONNECTION WITH THE JURISDICTION RECOGNISED SPECIFICALLY BY THIS AGREEMENT IN FAVOUR OF THE UNITED STATES IN THE CASE OF VESSELS CALLING AT OR OTHERWISE UTILISING US DEEP WATER PORTS. THE UNITED STATES DELEGATION CONFIRMED THAT THE UNDERSTANDING OF THE (UNITED KINGDOM DELEGATION) ON THIS POINT CONFIDENTIAL

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WAS CORRECT.

FINALLY THE (UNITED KINGDOM) DELEGATION PLACED ON RECORD THAT THE JURISDICTION RECOGNISED IN FAVOUR OF THE UNITED STATES PURSUANT TO THIS AGREEMENT RESULTED FROM THE AGREEMENT AND WAS NOT FROM THE OPERATION OF GENERAL INTERNATIONAL LAW.

THE US DELEGATION RESERVED THE RIGHT TO ARGUE THAT IT EXISTED ALSO PURSUANT TO GENERAL INTERNATIONAL LAW.
END QUOTE

2. FYI. THE LUNCH ORIGINALLY DID NOT INCLUDE THE UK AND IT WAS CLEAR THE UK DEL ASKED TO BE INCLUDED, PERHAPS WITH THE HOPE OF HAVING THE SCANDINAVIANS ASSOCIATED WITH ITS VIEWS. END FYI.

3. UK REP BEGAN BY APOLOGIZING THAT HE HAD NOT CONSULTED WITH THE SCANDINAVIANS PRIOR TO HAVING THE PRECEDING "MINUTE" TRANSMITTED TO THE US, AND REFERRED TO CONTINUING CONSULTATIONS AMONG THE UK AND THE SCANDINAVIAN COUNTRIES THAT HAVE BEEN APPROACHED BY THE US REGARDING THE DEEP

WATER PORT AGREEMENT.

4. SWEDISH REPS INDICATED THEY WERE ONLY CONCERNED WITH THE FIRST TWO ISSUES IN THE MINUTE AND THAT THE LATEST REVISION OF THE DRAFT AGREEMENT NEGOTIATED IN HAMBURG BETWEEN THE NORWEGIANS AND THE US CLARIFIED THAT ONLY SHIPS CALLING AT OR UTILIZING THE PORT WOULD BE SUBJECT TO THE AGREEMENT. UK REP PRODUCED A DOCUMENT PURPORTING TO BE THE TEXT OF THE REVISION AGREED TO BY THE US AND NORWAY WHICH IT WAS INFORMALLY AGREED WOULD APPARENTLY CONFIRM THE FIRST TWO UNDERSTANDING IN THE UK MINUTE.

5. US REP INDICATED THAT THE UK "MINUTE" TRANSMITTED TO DOS WOULD BE HANDLED IN WASHINGTON AND AN OFFICIAL REPLY
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WOULD BE FORTHCOMING IN DUE COURSE. AS PER VORBACH/LARSEN

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C O N F I D E N T I A L SECTION 02 OF 02 GENEVA 07415

PASS TO DEPT OF TRANSPORTATION MR. PAUL LARSEN TGC-10

TELECON OF 5-11-78 IT WAS STATED THAT US/NORWEGIAN AGREE-
MENT WAS APPARENTLY CLOSE TO FINAL FORM AND WOULD MOST
LIKELY BE TRANSMITTED TO THE NORWEGIAN EMBASSY IN WASHING-
TON IN THE NEAR FUTURE. US MADE CLEAR THAT THIS AGREEMENT

WAS APPARENTLY SATISFACTORY TO THE SCANDINAVIANS AND
LIBERIA.

6. FYI. "MINUTE" DOES NOT REPEAT NOT REPRESENT THE VIEWS
OF THE SWEDISH REPS WHO PRIVATELY EXPRESSED THEIR ANNOYANCE
AT NOT HAVING BEEN CONSULTED PRIOR TO ITS TRANSMITTAL AND
EXPRESSLY DISASSOCIATED THEMSELVES FROM IT. END FYI.
RICHARDSON

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Review Release Event: n/a
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SAS ID: 2699323
Secure: OPEN
Status: NATIVE
Subject: DEEPWATER PORT BILATERAL AGREEMENT
TAGS: PLOS
To: STATE
Type: TE
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